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Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in Nepal

1. At its 15th meeting, on 20 June 2008, the Working Group examined the second report of the Secretary-General on children and armed conflict in Nepal (S/2008/259), introduced by the Special Representative of the Secretary-General. The Permanent Representative of Nepal participated in the subsequent discussion.

2. The main elements of the exchange of views among the members of the Working Group are summarized below.

3. The members of the Working Group welcomed the submission of the report of the Secretary-General in accordance with Security Council resolution 1612 (2005). Some members expressed full support for the Secretary-General's analysis and recommendations while others were of the view that some parts of the report went beyond the mandate given by the Security Council.

4. The members welcomed the overall advances in the peace process during and since the reporting period, in particular the decrease in violations and abuses committed against children since the signing of the Comprehensive Peace Agreement by the Government of Nepal and the Communist Party of Nepal-Maoist (CPN-M) on 21 November 2006, and the fact that deliberate killing or sexual violence against children are not reported as prevalent.

5. Members of the Working Group recalled the first conclusions of the Group on children and armed conflict in Nepal (S/AC.51/2007/8) and reaffirmed their validity.

6. Concern was expressed that, although large numbers of children have been informally separated from the Maoist forces, no progress has been achieved in securing the formal discharge process of children in those cantonments.

7. Members were gravely concerned by the situation of children remaining in cantonments and urged (a) the Government of Nepal to implement a plan of action for the release and reintegration of children and (b) the CPN-M to live up to its commitment to formally release and discharge children.

8. In this regard, members of the Working Group were concerned that the question of payments of allowances by the Government of Nepal to the personnel in Maoist army cantonments had become an obstacle to the release of children and an incentive for children to remain there, and both parties were urged not to make the payment of such allowances a precondition for the release of children.

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9. Grave concern was also expressed about the more frequent recruitment of children and activities that increase their vulnerability to re-recruitment by a number of illegal armed groups in the Terai region.

10. Members of the Working Group expressed particular concern regarding the situation of the girl child.

11. The Government of Nepal was urged to end impunity by criminalizing the recruitment and use of children in violation of applicable international law and by taking all the steps necessary to ensure effective accountability for violations and abuses committed against children in armed conflict, and in this regard, the importance of the roles of the police and the army were emphasized.

12. Members of the Working Group underlined the need for all the armed groups, bearing in mind relevant provisions of Security Council resolution 1612 (2005), to start or to increase their cooperation with relevant United Nations agencies, in particular with the United Nations Children's Fund (UNICEF).

13. The cooperation of the Government of Nepal with the Working Group and the office of the Special Representative of the Secretary-General, in particular its invitation to the Special Representative to visit Nepal, was welcomed.

14. The Permanent Representative of Nepal:

(a) Took note of the recommendations of the report and ensured the full cooperation of his Government with the Working Group;

(b) Underlined the significant milestones in the peace process since the reporting period, in particular the election of a constitutional assembly and the improvement of the situation of children;

(c) Requested the Working Group to take those political developments into account in its consideration of the situation;

(d) Reaffirmed that, since the November 2006 peace agreement, there has been a substantial decrease in the number of children enrolled in armed groups and that the Government of Nepal, in cooperation with United Nations agencies, was preparing an action plan for the release of children;

(e) Reiterated his Government's willingness to cooperate with the Working Group in the implementation of Security Council resolution 1612 (2005), and ensured the Group that the Government was looking forward to the visit of the Special Representative of the Secretary-General in Nepal.

15. Further to the meeting, and consistent with applicable international law and relevant Security Council resolutions, including Security Council resolution 1612 (2005), the Working Group agreed to the following.

Recommendations to the Security Council

16. The Working Group agreed to recommend that the President of the Security Council transmit letters from the Chairman of the Working Group addressed:

To the Government of Nepal

(a) *Welcoming*: (i) The overall improvements in the peace process since the reporting period; (ii) the decrease in violations and abuses committed against

children since the signing of the Comprehensive Peace Agreement by the Government of Nepal and CPN-M on 21 November 2006; and (iii) the cooperation of the Government with the international community and the renewed invitation to the Special Representative of the Secretary-General to undertake a mission in Nepal;

(b) *Urging* it, bearing in mind the special responsibility of the Minister of Women, Children and Social Welfare, to:

(i) Devise, with the United Nations country team, a system for retroactive formal discharge of children who have been informally released by the Maoist army, and to secure reintegration and rehabilitation assistance for these children;

(ii) Ensure the immediate and unconditional release of all children remaining in cantonments, and continue its cooperation with the United Nations Mission in Nepal (UNMIN) and UNICEF for their reintegration;

(iii) Take all necessary steps to ensure also that illegal armed groups put an end to the recruitment, re-recruitment and use of children, in particular in the Terai region, including by ensuring public security;

(iv) Make a clear commitment to lead in the reintegration of children associated with armed forces and armed groups and intensify efforts, in collaboration with CPN-M and the United Nations, to set up an effective, well-resourced and well-monitored programme for the release and reintegration of these children; continue to pay particular attention, in the reintegration and rehabilitation process, to the special needs of girls affected by the conflict, in particular those associated with armed groups;

(c) *Also urging* it, bearing in mind the conclusions of the Working Group in its first report on children and armed conflict in Nepal (S/AC.51/2007/8), to:

(i) Fully implement relevant international treaties, in particular the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict and the Geneva Conventions of 1949, within the domestic legal system, including by enacting a law criminalizing the abduction, recruitment and use of children in violation of applicable international law;

(ii) Take all steps necessary to put an end to impunity by ensuring the effective accountability for violations and abuses committed by all parties during and after the conflict, in particular by investigating all allegations of recruitment and use of children, killings and maimings, abductions, attacks on schools and hospitals, sexual violence and denial of humanitarian access, and prosecuting the perpetrators of such actions, and in this regard to refer, where appropriate, to the bill setting up the Truth and Reconciliation Commission;

(iii) Ensure that the judicial system provides children who are victims of or witnesses to the conflict with adequate protective measures and to utilize child sensitive procedures, including by ensuring that children who have committed crimes in armed conflict are considered primarily as victims;

(iv) Increase its cooperation in this field with UNMIN and relevant United Nations agencies, in particular UNICEF, the United Nations Development

Programme and the Office of the United Nations High Commissioner for Human Rights;

(d) *Requesting* it to call upon CPN-M to honour its commitments undertaken in the Comprehensive Peace Agreement and the Agreement for Monitoring the Management of Arms and Armies by:

(i) Immediately and unconditionally releasing children who remain in the cantonments, bearing in mind, inter alia, the statement of the Special Representative of the Secretary-General of 25 August 2008, and, to that end, agree on a concrete time-bound action plan and follow-up on its implementation;

(ii) Putting and end to all obstacles to the reintegration of cantoned children, including by de-linking the release of children to the question of the payment of Government allowances to the personnel in the cantonments and by ending obstruction to the work of child protection agencies;

(iii) Working closely with the Task Force to urgently address the situation of children informally released from the Maoist army who were later forcibly recruited by Terai armed groups, and assisting in bringing to justice those responsible for the recruitment of children;

(iv) Requesting it to call on armed groups in the Terai region to end violations and abuses committed against children, including the recruitment and use of all children;

(v) Also requesting it to call on all armed groups to end the recruitment and use of children in violent activities that increase their vulnerability to violations and re-recruitment;

To the Secretary-General

(e) *Asking* him to request his Special Representative to visit Nepal to draw attention to the need to include the protection of children's rights in the post transition policies of the Government of Nepal and to encourage it to pursue its efforts in ending the recruitment, re-recruitment and use of children in violation of applicable international law and impunity of the perpetrators of all abuses against children;

(f) *Requesting* him to ensure that a child protection capacity is preserved in phasing out the activities of UNMIN, with a view to facilitating, inter alia, the discharge of all children present in the containment camps;

(g) *Commending* the work of the Children Associated with Armed Forces and Armed Groups Working Group, in particular the implementation of its reintegration programme since July 2007;

(h) *Inviting* the entities of the United Nations system in Nepal to support the Government of Nepal by:

(i) Continuing to monitor and report on grave violations and abuses committed against children, contributing to ending impunity for those violations and abuses and supporting the national system in its law enforcement activities;

(ii) Continuing to address, in close cooperation with the Government, the socio-economic issues, which will also contribute to addressing the welfare and health of children affected by armed conflict, including by strengthening its national institutions to implement national action plans, providing assistance in the implementation of full rehabilitation and reintegration programmes, and contributing to strengthening the educational system;

(iii) Addressing the long-term effects of armed conflict on children by supporting the development of an adequate health-care system to facilitate their full recovery, including special attention to psychological care for all children affected by armed conflict and appropriate health care and services for affected girls;

(iv) Welcoming the work of the Task Force on Children and Armed Conflict in Nepal and its review of performance in order to further strengthen its advocacy and coordination efforts.

Direct action by the Working Group

17. The Working Group agreed to address letters from the Chairman:

To the Special Representative of the Secretary-General to the United Nations Mission in Nepal

(a) *Commending* the work of Child Protection Advisers in UNMIN and their continued efforts to ensure the protection of children in Nepal, and requesting him to:

(i) Continue to allocate human and technical resources to ensure that all children affected by the conflict in all regions are covered under the monitoring and reporting mechanism;

(ii) Continue to advocate for greater protection of children and to continue the dialogue with all stakeholders to ensure that the commitments of the parties to the Comprehensive Peace Agreement regarding the protection of children are carried out, primarily the agreement on an action plan for the release of all children in the Maoist army between the Government and CPN-M, implemented in cooperation with United Nations agencies and in line with previous agreements;

(iii) Engage in a dialogue with the armed groups of the Terai region that have recruited children in their ranks.

To the World Bank and donors

(b) *Requesting* them to continue to:

(i) Ensure that sufficient resources are made available to support programmes for the release, return and reintegration of children associated with armed groups to their respective families and communities, including the programme of the Children Associated with Armed Forces and Armed Groups Working Group, with due consideration to the longer-term requirements of such programmes for children;

(ii) Support the Government of Nepal and, in consultation with it, relevant civil society organizations in their projects to implement peace transition programmes as they relate to children;

(iii) Support the Monitoring and Reporting Task Force in the collection of adequate and reliable information on violations against children so that child protection agencies may evaluate the programmatic needs of children affected by armed conflict;

(c) *Drawing* their attention to the importance of educational and socio-economic reintegration, including poverty alleviation activities, in order to prevent the recruitment and use of children in armed forces and groups by providing the children with viable alternatives;

To the Resident Coordinator and the United Nations country teams

(d) *Commending* their efforts in the follow-up to Security Council resolution 1612 (2005), in particular within the Task Force on Children and Armed Conflict, and its coordinating role within the Children Associated with Armed Forces and Armed Groups Working Group;

(e) *Requesting* them to continue to advocate for greater protection of children and to continue the dialogue with all stakeholders to ensure that the commitments of the parties to the Comprehensive Peace Agreement regarding the protection of children are carried out, primarily the agreement on a nationwide action plan for the release of all children in the Maoist army between the Government and CPN-M implemented in cooperation with United Nations agencies;

(f) *Requesting* them to continue to follow closely the legal progress made by the Government of Nepal in terms of investigations and prosecutions of perpetrators of crimes committed against children and in terms of enacting laws in implementation of relevant international treaties, in particular the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict and the Geneva Conventions of 1949.